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Report of the Secretary-General on the request of Nepal for United Nations assistance in support of its Peace Process

I. Introduction

1. The present report is submitted pursuant to Security Council resolution 1864 (2009), by which the Council, pursuant to the request of the Government of Nepal and the recommendation of the Secretary-General, renewed the mandate of the United Nations Mission in Nepal (UNMIN), as set out in resolution 1740 (2007), until 23 July 2009 and requested an interim report by 30 April. UNMIN was established as a special political mission with a mandate which included the monitoring of the management of arms and armed personnel of the Communist Party of Nepal (Maoist) (CPN-M) and the Nepal Army. Following the merger of CPN-M with the Communist Party of Nepal — Unity Centre (Masal) on 13 January 2009, the party was renamed the Unified Communist Party of Nepal-Maoist (UCPN-M).

2. This report reviews progress in the peace process and the implementation of the mandate of UNMIN since my report to the Council of 2 January 2009 (S/2009/1).

II. Progress of the peace process

3. There has been some progress on significant issues related to the peace process. As regards the all-important constitution-making work, nationwide public consultations on constitutional matters have been taking place and Constituent Assembly committees have prepared concept papers. Among the key bodies convened since the formation of the Government in August 2008 is the Special Committee mandated by the Comprehensive Peace Agreement and article 146 of the Interim Constitution to supervise, integrate and rehabilitate Maoist army personnel, which began regular consultations. Its Technical Committee was also formed, and has taken up its functions. The Government took steps towards the discharge of disqualified Maoist army personnel from the cantonment sites. Despite these not insignificant positive measures, differences among the major political parties continued to impede decision-making, hindering work in the Legislature-Parliament and implementation of peace process commitments. Notwithstanding the formation of coordination committees to strengthen relations and cooperation between UCPN-M and its major governing coalition partner, the Communist Party of Nepal

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(Unified Marxist-Leninist) (UML), and among the four political parties in the Maoist-led coalition Government, those relations remained fractious, marked by public acrimony and weak consultation over major decisions.

4. On 19 January, the Legislature-Parliament formed an 11-member committee comprising representatives of seven major political parties to monitor implementation of the nine-point agreement of November 2008 between the main opposition party, the Nepali Congress (NC), and the Government. The principal commitments included the return of property and reform of the UCPN-M Young Communist League. On 5 February, the Prime Minister, Pushpa Kamal Dahal "Prachanda", announced that all paramilitary structures of the Young Communist League would be disbanded, and instructed it to vacate all occupied government and public properties. At the request of the committee, the Secretaries of the Ministries of Home Affairs, Peace and Reconstruction and Industry and Commerce submitted a report on land and property seized by Maoists. The committee, which was expected to report on its findings by 6 May, has been given an extension until 31 July. The opposition Nepali Congress claims that the principal commitments have not been implemented, and it is expected to raise the issue strongly at the fifth session of the Legislature-Parliament which was scheduled to begin on 29 March. This session, initially boycotted by the UML and the opposition parties NC and the Tarai Madhesh Democratic Party (TMDP), resumed on 15 April when the Prime Minister expressed his commitment to ensure the implementation of past agreements.

5. The Constitutional Council, which is headed by the Prime Minister and makes recommendations on appointments to constitutional bodies, met in January for the first time in two years. The Council made appointments to the Public Service Commission, which, like several constitutional bodies, has not functioned effectively throughout the peace process because of vacancies. There has been some progress in the establishment of local peace committees to monitor the peace process, help resolve conflict and promote reconciliation and peacebuilding. The terms of reference of the local peace committees have been revised and finalized, on the basis of consensus among the major parties, including the Nepali Congress. By mid-April, the Ministry of Peace and Reconstruction had formally received reports that local peace committees had been formed in 10 out of 75 districts.

6. The Cabinet appointed members to the National Security Council, as provided for under article 145 of the Interim Constitution, to make recommendations on the mobilization, operation and use of the Nepal Army. It met for the first time in six years on 2 March. The Council is chaired by the Prime Minister and comprises the Minister for Home Affairs, Bam Dev Gautam (UML), the Minister for Foreign Affairs, Upendra Yadav (Madheshi People's Rights Forum (MPRF)), the Minister of Defence, Ram Bahadur Thapa (UCPN-M) and the Minister for Peace and Reconstruction, Janardan Sharma (UCPN-M). Its establishment is part of the process of strengthening civilian control over the Nepal Army and it is expected to play a role in developing a national security policy.

7. Tension persisted between the Ministry of Defence and the Nepal Army over the Army's recruitment of some 3,000 new personnel in contravention of instructions by the Minister of Defence and an interim order by the Supreme Court on 23 February to suspend recruitment. A national non-governmental organization filed public interest litigation in the Supreme Court against the Nepal Army recruitment on 17 February. On 28 February, leaders of the governing coalition

agreed that while the Nepal Army recruitment had been conducted in defiance of the Government, they would nonetheless allow it to stand. On 2 March, the Maoist army Commander, Nanda Kishore Pun "Pasang", issued a press release stating that this decision paved the way for the Maoist army to recruit new members, and calling on Nepali youths over the age of 18 to apply at the seven main cantonment sites. On 8 March, a single bench of the Supreme Court issued a stay order to halt Maoist army recruitment, and recruitment activity in the Maoist army cantonments stopped on 10 March. The Supreme Court is expected to issue final verdicts in both cases in May. UNMIN has consistently taken the position that any recruitment by either army constitutes a breach of the Comprehensive Peace Agreement and other related agreements.

8. Eight Nepal Army brigadier generals, whose tenure had not been extended by the Ministry of Defence, contested the Ministry's decision in the Supreme Court, which gave an interim order on 24 March reinstating them provisionally. Maoist cadres responded to the Court's decision with street protests in which judges were burned in effigy. UCPN-M leaders publicly questioned the Court's decision and its competence. These actions were criticized strongly by NC and UML, several of whose members have publicly stated support for the Nepal Army recruitment and called for the reinstatement of the generals. The episode deepened rifts between UCPN-M on one side and NC and UML on the other.

9. During its fourth session, the Legislature-Parliament approved seven bills and the budget for 2008/09 before being prorogued on 19 January. Shortly after the adjournment, the Government issued nine ordinances, a move criticized by several parties, notably NC and UML, for bypassing parliamentary procedure. The Ordinance on Maintaining Inclusiveness in the Public Sector, which provides for 45 per cent representation of historically marginalized communities, including in the security forces and health and education sectors, was promulgated in February. It provoked a violent two-week bandh (general strike) in March across the southern Tarai plains, part of a broader movement for greater recognition of the rights of indigenous ethnic groups. The bandh was imposed by the Tharuhat Joint Struggle Committee, representing several Tharu organizations, and supported by NC and UML and other indigenous groups who objected to their inclusion under the category of Madheshi in the Ordinance. Five demonstrators and one armed police officer were killed during the protests, which severely disrupted daily life across the region, and were called off after the Government and the Tharuhat Joint Struggle Committee reached an agreement on 14 March. The agreement recognizes the distinct identities of Janajatis, Madheshis, Dalits, Muslims and all other minorities in the country, including the indigenous Tharus of the Tarai, and includes the commitment to amend constitutional and legal provisions accordingly.

10. Madheshi issues remained prominent on the political agenda. The Tarai Madhesh Democratic Party withdrew its support for the Maoist-led Government on 1 January and, together with the Sadbhawana Party, engaged in protests to press for implementation of the agreement of February 2008 between the Interim Government and the United Democratic Madhesi Front (UDMF), which they view as including autonomy for the Madhesh region, in reference to the whole of the southern Tarai plains, a concept contested by other ethnic groups in the area. UCPN-M party leaders from across the Tarai met to discuss regional issues, and Madheshi concerns in particular. A senior UCPN-M Madheshi leader and former Minister, Matrika Yadav, announced that he would reconstitute CPN-M as a national party, claiming

that the UCPN-M leadership had not done enough to address Madheshi concerns. Subsequently, the new CPM-M joined with the Kirant Janabadi Workers' Party, an armed group active mainly in the eastern hills, which had held an initial round of talks with the Government in January. Meanwhile, Upendra Yadav, MPRF Chairperson and Foreign Minister, warned that his party would leave the Government if Madheshi concerns were not adequately addressed. In March, several leaders left MPRF to form the Tarai-Madhesh Party.

11. Protests erupted following the killing of Prachanda Thaiba, a member of the UML-affiliated Youth Force, by an unidentified group in Butwal, Rupandehi district, on 26 March. UML claimed that a UCPN-M affiliated Young Communist League cadre was responsible for the killing. Despite an indefinite curfew imposed by the district authorities, the local UCPN-M and Young Communist League offices were vandalized, allegedly by UML supporters. As a result of the incident, UML threatened to pull out of the Government unless UCPN-M took steps to bring the perpetrators to justice. The parties accused UCPN-M of promoting a culture of impunity, impeding the effective functioning of the judiciary, the media and the Nepal Army, and failing to implement past agreements. Following his return on 4 April, from a week-long visit to Norway and Finland, the Prime Minister met with leaders of other political parties to discuss overcoming the impasse, during which the Legislature-Parliament had been suspended; he presented a number of public commitments on 15 April.

12. On 10 April, by-elections were held in six constituencies where the incumbents had vacated seats won in the Constituent Assembly elections held on 10 April 2008. The Election Commission deployed 2,450 staff to conduct the by-election. According to the Election Commission, 490 polling centres were set up and there were 444,353 people on the voters' rolls. There were 139 candidates, including 10 women. Security problems were reported in Morang-7, where there were clashes on the eve of the election between cadres of UCPN-M and the reconstituted CPN-M, but the situation remained relatively calm elsewhere. The Election Commission reported several violations of the election code of conduct. Three national and four international observers had permission to observe the by-election. UCPN-M won in the three constituencies of Kanchanpur-4, Kaski-1 and Rolpa-2, while the Nepali Congress, UML and MPRF won one seat each in Morang-7, Dhanusha-5 and Morang-5 respectively. The Nepali Congress lost the seats in Dhanusha-5 and Kanchanpur-4 which it had won in the Constituent Assembly elections of 10 April 2008. Voter turnout at the by-elections was on average 13 per cent lower than in 2008 in the six constituencies.

13. In a close contest, the approximately 1,800 delegates at the UML National Convention on 16 February at Butwal elected Jhalanath Khanal, former General Secretary, to the newly created position of Chairman. Khanal's main challenger, K. P. Oli, has been critical of the Maoist-led Government, giving voice to growing frustration within the party. The election process was viewed as signalling the democratic transformation of the party.

14. Free Student Union elections were held in March in colleges across the country. Several violent protests and clashes were reported between members of student groups affiliated with UCPN-M, UML and NC and their youth wings, and between students and the police. The UML- and NC-affiliated student unions posted better results than the less well-established union affiliated with UCPN-M.

15. During the reporting period, the United Nations High Commissioner for Human Rights, Navanethem Pillay, visited Nepal (see para. 39) to observe the operations of the country office and to seek a renewal of the mandate of her Office, which expires in June.

III. Drafting the constitution

16. The Constituent Assembly has made some progress on the constitution-drafting process, which is to be completed by May 2010. Chairpersons of the 14 Constituent Assembly and 10 Legislature-Parliament committees were elected by 13 January. After nomination by the Council of Ministers as a Constituent Assembly member, a senior UML leader, Madhav Kumar Nepal, was elected unanimously as Chairperson of the 63-member Constitutional Committee, which has principal responsibility for finalizing the new constitution. Forty teams of Constituent Assembly members visited the 75 districts over a three-week period in March to solicit public opinion on the constitution. Their use of a lengthy technical questionnaire met with criticism, and the methodology for the compilation, analysis and use of the results has yet to be determined. Constituent Assembly committees are to submit thematic concept papers to the Constitutional Committee late in April.

17. Several political parties presented their proposals for the new constitution to the Constitutional Committee. The main challenges for the Committee will be reaching agreement on the form of governance and the new federal structure of the country. The parties have proposed several different forms of government, UCPN-M and MPRF opting for a presidential system and NC for a Westminster-style parliamentary system. UML has proposed a parliamentary form of government with a directly elected Prime Minister. Some smaller royalist parties remain loyal to the monarchy. With regard to the future federal structure of Nepal, UCPN-M put forward a federation of 13 autonomous provinces, including some based on ethnic lines. UML proposed a federal structure based on geography, population, language, culture, history and natural resources, while NC supports federal units based on economic and geographical factors, and not on communal lines. MPRF envisages a Madhesh province with the right to self-determination.

IV. Integration and rehabilitation

18. After a protracted delay, the Special Committee to supervise, integrate and rehabilitate Maoist army personnel met for the first time on 16 January. The Committee is chaired by the Prime Minister, who, with the Defence Minister, represents UCPN-M on the Committee. The Committee comprises two representatives each from UCPN-M, UML, MPRF and NC. The Committee adopted its terms of reference on 5 February, according to which its duties and responsibilities include assessing the conditions of those Maoist army personnel registered and verified by UNMIN; preparing a basis for their integration and rehabilitation; supervising, controlling and giving directions in matters of Maoist army personnel and stored arms inside and outside the cantonments until integration and rehabilitation are completed; and submitting to the Government a list of those who choose integration as well as drafting a rehabilitation programme for those who are unwilling or unable to integrate. The terms of reference also include establishing

an expert Technical Committee to support the Special Committee and drawing up a workplan for completing the integration and rehabilitation of the verified Maoist army personnel within six months. The Prime Minister has reiterated the need for technical support by the United Nations and other international partners for the work of the Special Committee, as well as for the discharge and rehabilitation of the disqualified Maoist army personnel.

19. On 12 February the Prime Minister instructed the Maoist army to abide by decisions of the Special Committee, under whose supervision they would now fall, in accordance with the Interim Constitution. The Technical Committee to support the Special Committee was established on 27 March: like the Special Committee, it is composed of eight persons, two nominated by each of four parties. They include two retired senior Nepal Army officers, a former senior Nepal police officer, a former Maoist army commander and other security experts. The Technical Committee is mandated to work in two phases, the first of which includes conducting a survey within the cantonments to assess the choices of the verified Maoist army personnel, and to study international experiences. In the second phase they are to determine the modalities of integration and rehabilitation packages and to present a final report to the Special Committee. The Technical Committee has been meeting regularly and, after an initial briefing by UNMIN on the work of the Mission and an overview of the cantonments, visited Maoist army cantonment sites at Nawalparasi on 8 April, and Ilam on 17 April.

V. Discharge of the disqualified Maoist army personnel

20. On 11 February, the Special Committee requested the Government to proceed with the discharge from the cantonments and rehabilitation of the 4,008 Maoist army personnel who were disqualified during the UNMIN verification process, including the 2,973 who were minors in May 2006. The Ministry of Peace and Reconstruction has primary responsibility for implementing the long-delayed discharge process. There has been some progress in this regard with the resumption of discussions between the Ministry and the United Nations on the modalities of discharge and possible United Nations support. The Ministry, with the technical support of the United Nations, has designed and will conduct a survey in the Maoist army cantonments to identify the choices and preferences of disqualified army personnel, including information on the types of support they will seek. The United Nations Development Programme, the United Nations Children's Fund (UNICEF) and the United Nations Population Fund have already developed various support packages that could be provided to those who are discharged.

VI. Other challenges affecting the peace process

21. On 5 January, at a meeting of UCPN-M and UML, it was agreed to reinstate the local village development committees and district development committees, which oversee the use of State funds for local service delivery. However, there is no agreement on a system for apportioning leadership positions, and some parties, notably NC and TMDP, are calling for elections to be held.

22. By the end of March, the Government had engaged in an initial round of formal talks with six smaller Tarai armed groups. The larger groups — the Akhil

Tarai Mukti Morcha, led by Jaya Krishna Goit, and the Tarai Janatantrik Mukti Morcha, led by Jwala Singh — did not respond to the Government's offer of dialogue. The Janatantrik Tarai Mukti Morcha-Rajan Mukti announced its withdrawal from talks, citing the Government's failure to implement an earlier six-point agreement. There is some scepticism over the value of the talks. Although the Government has increased its security presence in the Tarai, law and order remains weak, with reports of 80 killings and 28 abductions in the three months since 15 January. The Office for the Coordination of Humanitarian Assistance received reports of 65 attacks using improvised explosive devices from 30 January to 9 April. Following the murder in January of journalist Uma Singh in Janakpur, Dhanusha district, attacks on media houses have continued.

23. Two police posts were attacked, one in February in Pyuthan district, the other, in April, in Surkhet, both areas with traditionally strong Maoist support in the Mid-West region. A number of underground groups have separately claimed responsibility and, during March, the police arrested six alleged perpetrators.

VII. Status of the United Nations Mission in Nepal

24. My Special Representative in Nepal since the establishment of UNMIN in 2006, Ian Martin, left the Mission on 6 February. On 28 January, I informed the Security Council of my intention to appoint Karin Landgren as my Representative in Nepal, and she took up her responsibilities following the departure of Mr. Martin. On 1 April, the Mission was downsized to 275 personnel from the previous authorized strength of 396. Of the 193 civilian personnel in the Mission, 31 per cent are women, including 49 per cent of the substantive staff and 24 per cent of the administrative staff. There are three female arms monitors out of a total of 73, a number subject to the nomination of candidates by Member States. Thirty-one per cent of the national staff are women. The efforts of UNMIN to recruit national staff from traditionally marginalized communities have yielded positive results: 50 per cent (62 out of 124) are from traditionally marginalized groups.

VIII. Activities of the United Nations Mission in Nepal

A. Arms monitoring

25. The Arms Monitoring Office continued to monitor the compliance of the Nepal Army and the Maoist army with the Agreement on Monitoring the Management of Arms and Armies. Arms monitors continue to maintain round-the-clock surveillance of the Nepal Army weapons storage site, and the weapons storage areas at the seven main cantonment sites of the Maoist army, from which they also visit the satellite cantonment sites. Other operations are conducted by mobile teams from the headquarters of the Arms Monitoring Office in Kathmandu.

26. The Joint Monitoring Coordination Committee continued to meet under the chairmanship of the Chief Arms Monitor, and the senior officers representing the Nepal Army and the Maoist army have continued to cooperate closely on decision-making, exchange of information, confidence-building measures and resolution of disputes. By 20 April, the Joint Monitoring Coordination Committee had held 96 meetings since it first convened in December 2006. During the

reporting period, the Committee considered six alleged violations of the Agreement on Monitoring the Management of Arms and Armies, of which two were substantiated as violations, three were not substantiated and one awaits further clarification.

27. At the request of the Ministry of Peace and Reconstruction, arms monitors witnessed further salary payments to eligible Maoist army personnel at the cantonment sites. Their salaries were raised from Nr 3,000 to Nr 5,000 from September 2008 and, during the recent salary payment for the months of February and March, each combatant received Nr 18,000, which included the increase, retroactive to September.

B. Child protection

28. The Child Protection Section has continued to work with UNICEF, the Office of the United Nations High Commissioner for Human Rights (OHCHR) Nepal and the members of the Nepal task force on children and armed conflict. This included work related to preparation for the anticipated discharge from cantonments of Maoist army personnel disqualified as minors. The Section has also continued to work with the inter-agency discharge and rehabilitation task force and the cantonment conditions task force chaired by UNMIN.

C. Political affairs

29. As UNMIN downsized, liaison teams consisting of three national officers each and based in Biratnagar, Kathmandu and Nepalgunj, and their headquarters support unit, completed their assignments on 30 January. The Political Affairs Office continued to monitor and analyse the political situation in the country, including through field visits to the regions, and to assist the Mission leadership in its efforts to support the peace process. Political affairs officers met regularly with stakeholders, including Government officials, representatives of political parties and civil society organizations, as well as regional and international actors. The activities of small militant groups, both armed and unarmed, and their potential to disrupt the peace process were monitored, as were relations among the political parties and the evolving role in the peace process of traditionally marginalized groups. The Office continued to assess the status of implementation of the Comprehensive Peace Agreement, as well as other relevant agreements, and monitored proceedings of the Constituent Assembly.

D. Public information

30. The national media gave extensive coverage to the controversy over the recruitment of some 3,000 personnel by the Nepal Army, the recruitment drive by the Maoist army, and the resulting tensions between the Ministry of Defence, the Government and the Nepal Army. The Supreme Court proceedings relating to recruitment by both armies were followed closely, as was the Government's decision not to extend the tenure of service of eight Nepal Army brigadier generals and their subsequent challenge of that decision in the Supreme Court.

31. Steps taken by the Special Committee including its request to the Government to proceed with the discharge of the disqualified Maoist army personnel were well reported. The UML General Convention in February including the closely contested election for the position of Chairperson and elections for other senior leadership positions, was widely covered, and the participation of some 1,800 delegates was lauded by many as a welcome step by the party to improve democratic practice.

32. The appointment of chairpersons of the 24 committees of the Constituent Assembly and Legislature-Parliament was also reported, special attention being paid to the appointment of the UML leader Madhav Kumar Nepal as Chairperson of the core Constitutional Committee. The media was generally sceptical about the consultative exercise undertaken by teams of Constituent Assembly members to the 75 districts countrywide to solicit public views on the constitution, highlighting the length and complexity of the questionnaires, and uncertainty over the utilization of the information gathered, given the time constraints for compiling it.

33. The attacks against journalists and several media houses elicited an extensive campaign by media personnel demanding security and an end to impunity. The disruption of daily life in the Tarai by strikes, and agreements reached between the Government and Tharu groups, the Muslim community, and the Tarai armed groups, received wide media coverage.

34. The President of Sri Lanka, Mahinda Rajapaksa, the then Foreign Secretary of India, Shiv Shankar Menon and the Assistant Foreign Minister of China, Hu Zhengyue, visited Nepal and discussed bilateral cooperation issues. The Prime Minister visited Norway and Finland from 28 March to 4 April; bilateral relations and support for exploiting renewable energy sources in Nepal such as hydropower and wind power as the focus of discussions.

E. Safety and security

35. The security situation in the country remained relatively calm and stable. An improvised explosive device detonated at the entrance gate of the OHCHR Nepal office at Nepalgunj, on the night of 13 February, at a time when no staff members were on the premises. A previously unknown Hindu fundamentalist group claimed responsibility for the incident, which did not appear to be directed at the United Nations or at harming its staff but rather at drawing attention to the group's existence and objectives. There were disruptions to UNMIN and United Nations country team programmes, owing to the two-week protest in mid-March by the Tharus and other indigenous groups across the Tarai. The daily electricity cuts of up to 16 hours have had security and safety implications for both the local population and United Nations staff, particularly night-time burglaries and robberies. The threat level was considered low with no direct or indirect threat affecting the safety and security of personnel and property during the reporting period. The UNMIN Safety and Security Section maintained close coordination with the Department of Safety and Security of the Secretariat.

IX. Mission support

36. The mission support component has continued to support UNMIN activities effectively throughout the Mission area, priority being given to the cantonment sites. The continued presence of arms monitors at the seven main Maoist army cantonment sites and their conduct of mobile patrolling entail a wide geographical dispersion of UNMIN personnel. Consequently, communications and air transport resources continue to be required to provide the necessary logistics support, security and medical linkages between Kathmandu and the remote deployment locations of arms monitors.

37. The mission support component continued to consolidate and reduce personnel, infrastructure and material resources within the Mission. The Office of Mission Support was reduced from 210 staff in January to 143 staff as from 1 April. During the reporting period, the regional presences in Biratnagar and Nepalgunj were removed, leases of former Kathmandu offices were terminated and part of the International Conference Centre that UNMIN had been occupying was returned to the Government. Disposal of surplus assets continues: equipment is being sent to other United Nations peace operations or disposed of locally. Additional consignments and disposal action will be completed in conjunction with any further downsizing or liquidation activity in mid-2009. This phased reduction will substantially minimize the final liquidation phase. The contract for one fixed-wing asset was not extended, leaving the Mission with one helicopter for air support.

38. Memorials to commemorate the tragic deaths of 10 UNMIN staff members and 3 crew members in the helicopter crash of 3 March 2008 were held at United Nations House in Kathmandu and in Bhwonsa, the village near the crash site, on 3 and 6 March, respectively. Memorials in honour of the deceased were erected at United Nations House and at Bhwonsa.

X. Human rights

39. During her visit to Nepal from 18 to 22 March, the United Nations High Commissioner for Human Rights, Navanethem Pillay, met with the President, Ram Baran Yadav; the Prime Minister, Pushpa Kamal Dahal "Prachanda"; the Foreign Minister, Upendra Yadav; and the Minister for Peace and Reconstruction, Janardan Sharma; political party leaders, the National Human Rights Commission, civil society organizations and others. As in her report on the human rights situation and the activities of her office, including technical cooperation, in Nepal, to the Human Rights Council on 27 March, she welcomed improvements in the human rights situation since the end of the conflict, as well as the recent steps taken by the Government to establish transitional justice mechanisms. However, the High Commissioner noted that the general climate of impunity for human rights violations committed during and since the conflict remains one of the main human rights concerns. These concerns have been reflected in public discussion and media coverage, in which a lack of accountability has been highlighted as potentially jeopardizing the success of the peace process. The High Commissioner also discussed with the Government and political party leaders the renewal of the mandate of OHCHR Nepal, which expires in June. She received indications of support from the Prime Minister and leaders of the main political parties but a formal agreement remains pending.

40. On 10 February, in a step towards establishing transitional justice mechanisms, President Yadav promulgated the Disappearance (Crime and Punishment) Ordinance, which criminalizes enforced disappearances and provides a framework for the establishment of a Commission of Inquiry on Disappearances. Civil society groups and political parties criticized the issuance of the Ordinance, saying that a bill should have been submitted to the Legislature-Parliament before it was prorogued on 19 January, and pointing out serious weaknesses in several provisions. These include a "reverse" burden of proof (which lies with the accused), disappearances defined in a manner inconsistent with international law, a short limitations period that would restrict the opportunities for victims to seek redress in court, and weak penalties that do not reflect the severity of offences. Furthermore, the Ordinance lacks a transparent process for selecting commissioners, leaving it vulnerable to political manipulation. The Government is expected to submit a bill to the Legislature-Parliament at its current session.

41. The Ministry of Peace and Reconstruction conducted consultations in all five regions on the draft bill establishing a Truth and Reconciliation Commission, with the participation of victims of the conflict and other interested parties, who commented on the legislation and communicated their needs and expectations regarding the proposed mechanism. OHCHR Nepal cooperated closely with the Ministry on the programme of these consultations at the latter's request. The Ministry is considering organizing further thematic and district-level consultations and has requested the support of OHCHR.

42. These positive developments with regard to establishing transitional justice mechanisms follow a series of public commitments by the Government to tackle impunity. Significant progress towards judicial accountability has yet to be observed, however. For example, a serving army officer, charged together with three other army personnel in the torture and death of 15-year-old Maina Sunuwar in February 2004 at the Birendra Peace Operations Training Centre in Panchkal, about 20 kilometres from Kathmandu, has been promoted to a post in the Directorate of Military Intelligence and has so far failed to respond to an arrest warrant issued by a civilian court. Earlier, the four officers were sentenced by court martial on lesser charges and given temporary suspensions. Similarly, one of the main alleged perpetrators of the torture and enforced disappearances documented in the report of OHCHR on conflict-related disappearances in Bardiya district issued on 19 December 2008 has been promoted and continues to serve in the Nepal Army's Directorate of Military Operations in Kathmandu.

43. Progress on investigations by the Nepal police into other politically sensitive cases was also limited. In the case of Ram Hari Shrestha, a businessman allegedly murdered in the main Maoist army cantonment site in Chitwan in May 2008, police efforts to apprehend suspects have been inadequate. At the same time, a prime suspect in the case, Kali Bahadur Kham Magar "Bibidh", continues to serve as the Commander of the Maoist army third division and has, since the killing, become a member of the UCPN-M central committee. On 2 February, the Supreme Court issued a ruling directing the Nepal police to proceed with investigations into the disappearance on 8 October 2003 of five students in Dhanusha district, a case which was taken up with the police by the High Commissioner during her visit.

44. In February, the National Human Rights Commission and OHCHR Nepal signed guidelines for cooperation between the two organizations. These established

a platform for the Commission to assume the leading responsibility for investigating current and new cases of human rights violations with the support of OHCHR. Cooperation between OHCHR and the National Human Rights Commission increased following the signing of the guidelines, including in promotion of economic, social and cultural rights. In this regard, training workshops on human rights indicators, in particular with regard to economic, social and cultural rights, were held for Government officials, the National Human Rights Commission and members of civil society in February.

45. OHCHR has identified protection, promotion and support to human rights defenders, particularly at the local level, as one of the main concerns for its support to civil society, including through the European Union Working Group on Human Rights Defenders. This follows a number of reports of threats to human rights defenders, in addition to threats and attacks on journalists and publishing houses, as noted elsewhere in this report.

46. Progress is noted in the Government's efforts to revise the current National Human Rights Action Plan using rights-based budgeting, linkage to the Millennium Development Goals, and incorporation of relevant human rights indicators. OHCHR supported the Government through the Human Rights Division of the Office of the Prime Minister and Council of Ministers.

47. In the lead-up to the Durban Review Conference, OHCHR supported the participation of non-governmental organizations working on the rights of Dalits, indigenous peoples, sexual minorities, Madheshis and religious minorities. OHCHR facilitated the formation of a Coordination Committee of Nepalese Civil Society and provided technical assistance for the preparation of a common Nepalese civil society report to the Conference reflecting critical areas of discrimination as well as gaps and challenges in the implementation of the Durban Declaration and Programme of Action.

48. OHCHR has continued to rationalize its country office in Nepal. Its support for the strengthening of national institutions, including the National Human Rights Commission and other commissions (for women, Dalits and indigenous peoples), as well as civil society organizations has been reinforced while it also focuses on addressing impunity and supporting transitional justice mechanisms, eliminating unlawful discrimination and enhancing access to social, economic and cultural rights. In carrying out this programme, which contributes substantially to the deepening and consolidation of the peace process, it has reduced its international staffing by more than half while maintaining its field offices. From July, subject to the Government's agreement on a renewal of its mandate, OHCHR will have 24 international and 80 national posts in five locations, a reduction from 177 posts, including 74 internationals, at the end of 2007.

XI. United Nations country team coordination

49. In January, the United Nations country team and international partners released a humanitarian transition appeal for 2009 for $115 million. The appeal focuses on the lifesaving needs of the food insecure population, refugees and the residual caseload from the 2008 floods, and, as of 10 April, was 44 per cent funded, primarily the food assistance component. On 4 March, the Ministry of Home Affairs

requested the United Nations to continue its emergency support to the population displaced by the Koshi flood until at least mid-April 2009.

50. An intensification of strikes and other disturbances in the Tarai during February and March affected the operations of a number of United Nations agencies, funds and programmes, including the delivery of humanitarian assistance to vulnerable populations. Interference with the movement of United Nations vehicles at improvised checkpoints increased during the reporting period. On 8 March, the Resident and Humanitarian Coordinator issued a press statement underlining the critical importance of protecting humanitarian and development space in Nepal, and calling on all groups to allow passage of vehicles, goods and personnel.

51. Following confirmation of outbreaks of avian influenza in Jhapa district, East region, on 16 January and 20 February, the United Nations country team supported Government efforts to control the outbreak. Similarly, given the high vulnerability of Nepal to natural disasters, the United Nations country team continued supporting the Government's preparedness efforts. In this regard, support continued for the Government-led exercise of the International Search and Rescue Advisory Group, carried out in Nepal from 22 to 24 April.

52. Since the departure of my Special Representative in February, changes have been made to arrangements for the oversight and management of the United Nations Peace Fund for Nepal. The Resident and Humanitarian Coordinator is now the Chairperson of the Executive Committee of the Fund, while my Representative in Nepal serves as Vice-Chairperson. The Fund continues to support key aspects of the peace process, including a programme for the discharge and reintegration of disqualified Maoist army personnel, and a new programme for youth employment in selected districts. The Fund remains a flexible and efficient tool for the United Nations to provide assistance for the consolidation of peace in Nepal, and I encourage Member States to continue their support.

53. The landmine menace remains a tragic legacy of the conflict in Nepal, but there has been a significant reduction in casualties. Mine action is a key activity supported by the United Nations Peace Fund for Nepal. Since January, 11 civilians, including 9 children, have been severely injured or have died as a result of victim-activated explosions. During the reporting period, the United Nations mine action team supported the clearance of an additional three minefields, bringing the number of cleared minefields to 8, out of a total of 53. A national network of over 400 Government, Red Cross and non-governmental organization focal points has been established for mine awareness and response, and some 1,000 schools are to be provided with training and mine-risk education materials. However, the provision of maps and sketches by the Government, as required by the Comprehensive Peace Agreement, has been only partially met, and I urge the Government to fulfil all commitments in this respect.

54. The Government is preparing for the National Development Forum scheduled for mid-May. The Forum will provide an opportunity for the Government to present a new two-year development strategy to the international community, and to solicit new pledges from donors to support the Government's capital investment budget. A series of regional consultations are being organized in April to determine the priorities of the new strategy, and donors are engaging with the Government to advise on strategic direction, with a particular focus on the linkages between development and the peace process. The United Nations country team has offered to

provide technical advice to relevant Ministries and the National Planning Commission, as requested. In order to keep in line with Government planning processes, the United Nations country team has requested approval from the Government for a two-year extension, until 2012, of its United Nations Development Assistance Framework.

XII. Observations

55. Recent developments, namely progress on major components of the peace process related to the drafting of the constitution and discussions on the future of the two armies, give me cause for some optimism. Planning for the discharge of the disqualified Maoist army personnel has moved forward at a brisk pace since late March, and the implementation of a well-thought-out plan will fulfil, if belatedly, commitments parties made in the peace process and to the United Nations. The scheduled weekly meetings of the Special Committee, and the establishment of its Technical Committee, both of which include representatives of the main opposition party, the Nepali Congress, are encouraging signs of determination to address the difficult issue of the integration and rehabilitation of Maoist army personnel, and signal the parties' ability to move forward constructively. I commend these steps and encourage all concerned to sustain this momentum without further delays.

56. The Government has pledged to complete the integration and rehabilitation process by 15 July. I am encouraged by the serious work that has begun in recent weeks, and hope that it will lead to concrete measures without further loss of time. Recognizing the complexity of the required actions, however, it may not be realistic to expect completion within the next three months.

57. The Prime Minister has requested UNMIN support to the Special and Technical Committees, whose efforts will be critical to the role of UNMIN in supporting the peace process. Further to the findings of the advisory team which visited UNMIN in December 2008, through the Mediation Support Unit of the Department of Political Affairs, UNMIN is working closely with the Ministry of Peace and Reconstruction and the Technical Committee to determine the technical and logistical requirements to support their work in the coming weeks. UNMIN has provided support to the Technical Committee to help facilitate visits to cantonment sites.

58. At the end of the previous mandate in January, UNMIN reduced its staff to a minimal level. Nepali parties have repeatedly indicated to the United Nations that UNMIN arms monitors will continue to be needed to perform their current duties until the issue of the integration and rehabilitation of Maoist army personnel is resolved. The international community remains committed to supporting the process on which Nepal has embarked for the consolidation of peace and improvement of the lives of its people.

59. Continuing political challenges such as the controversial decisions taken by the UCPN-M-led Government and the Nepal Army related to army personnel, and frequent acrimony among senior political leaders, have strained relations, contributing to an atmosphere of mistrust which may hinder all parties from moving forward on integration and rehabilitation modalities. The spirit of cooperation that is required to advance the peace process needs to be invigorated. Numerous agreements between the Government and other parties or groups have yet to be

implemented. The challenges of addressing the demands of numerous identity-based groups in the forthcoming constitution and the debate in the coming months over federalism will require consistent and positive engagement by senior leaders across the political spectrum. I reiterate the need for all leaders to work actively to generate public confidence, and a shared sense of national unity and purpose, in Nepal's peace process.

60. The by-elections of 10 April were conducted in a largely peaceful and orderly atmosphere. However, serious threats to law and order remain. Few leaders have spoken out forcefully against acts of violence and vandalism by supporters of their groups or parties, and a lack of accountability for even the most serious human rights abuses committed during and after the conflict remains the norm. Significant violence is attributed to youth groups affiliated with political parties, undertaking self-appointed policing roles. In this regard, it is noteworthy that a recent agreement between two members of the governing coalition, UCPN-M and UML, includes the pledge to "discourage acts of mutual vengeance".

61. In my report of 18 October 2007 to the Council (S/2007/612), I noted that "a prolonged stay in cantonments of thousands of mainly young people living under difficult conditions and lacking clarity about their future is not a sustainable solution". Well-planned rehabilitation of Maoist army personnel and their integration into society or the security forces will be essential to future stability. The peace agreements and Interim Constitution foresaw a parallel process of army democratization. It is encouraging to note the recent reactivation of the National Security Council, which will play an important role in determining the future security policy for Nepal together with the size and shape of the security sector. The deliberations of the National Security Council should also influence the direction of the integration process.

62. Given the centrality of human rights in the peace process and prevailing concerns, in particular about persisting impunity, I remain convinced that the OHCHR Nepal office can continue to play an important and positive role, not only in helping to build the capacity of national institutions to protect and promote human rights, but in maintaining the confidence of all stakeholders in the peace process.

63. I would like to convey my appreciation to the Security Council and other Member States for their continued support to Nepal. I would also like to thank my Representative, Karin Landgren, her staff and their partner organizations within and outside the United Nations system for their dedicated efforts.